

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-028-02-1-5-00319
Petitioners: John & Betty Oros
Respondent: Department of Local Government Finance
Parcel #: 008-43-53-0057-0011
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$185,200 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 15, 2004.
3. The Board issued a notice of hearing to the parties dated August 09, 2004.
4. A hearing was held on September 21, 2004, in Crown Point, Indiana before Special Master Peter Salveson.

Facts

5. The subject property is located at: 2962 East 62nd Place, Hobart, in Ross Township.
6. The subject property is a home on .553 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:
Land \$30,900 Improvements \$154,300 Total \$185,200
9. Assessed value requested verbally by the Petitioners during hearing:
Land \$25,000 Improvements \$154,300 Total \$179,300

10. Persons sworn as witnesses at the hearing:
For Petitioner — John Oros, Owner
For Respondent — David M. Depp, Representing the DLGF

Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) Petitioners contend that the subject property is over-assessed when compared to the sales of three unimproved residential lots near the subject property. *Oros Testimony; Petitioner Exhibits A, B, C.*
 - b) Petitioners contend that the subject property is inferior to the vacant land sales presented because the subject property has an easement that runs the depth of the property. *Oros Testimony; Petitioner Exhibit A.*
12. Summary of Respondent's contentions in support of assessment:
- a) Respondent contends that the sales presented by Petitioners were for unimproved lots. *Depp Testimony.* The sales of three comparable improved properties support the current assessed value. *Depp Testimony; Respondent Exhibit 4.*
 - b) The land value to the total ratio is 17 percent, which is within reassessment parameters. *Depp Testimony.*
 - c) The subject property's value is correct and consistent with other similar properties. *Depp Testimony.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition
 - b) The tape recording of the hearing labeled Lake Co. 130
 - c) Exhibits:
 - Petitioner Exhibit A: Unimproved Lot Sale, Lot #13, Valley Oaks
 - Petitioner Exhibit B: Unimproved Lot Sale, Lot #3, Valley Oaks
 - Petitioner Exhibit C: Unimproved Lot Sale, Lot #4, Valley Oaks
 - Petitioner Exhibit D: Subdivision Plat
 - Petitioner Exhibit E: Homeowner's Insurance Declaration
 - Respondent Exhibit 1: Form 139L Petition
 - Respondent Exhibit 2: Subject property record card
 - Respondent Exhibit 3: Subject photo
 - Respondent Exhibit 4: Comparable property record cards and photos

Board Exhibit A: Form 139L Petition
Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:
- a) A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d at 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. Of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) ("[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis").
 - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) Petitioners presented three sales of unimproved residential parcels as comparable property sales. The sales' prices ranged from \$22,000 to \$25,000, but the sales' dates were from July 2002 to April 2004. There is no explanation of how these values demonstrate, or are relevant to, the value of the subject property as of January 1, 1999. Accordingly, they have no probative value for this case. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 8-9 (Ind. Tax Ct. January 28, 2005).
 - b) Similarly, Petitioners' homeowner policy declaration for the period November 2003 to 2004 has no explanation of how it demonstrates, or is relevant to, the value of the subject property as of January 1, 1999. Accordingly, it has no probative value for this case. *Id.*
 - c) The Petitioners submitted sales of unimproved properties, but did not adjust the unimproved lot sales for improvements that are included in the cost of the subject property's lot, such as well and septic systems, landscaping, walks, and driveways. Without that evidence, it is impossible to compare those properties with the subject

property or to reach any conclusion about their relative values. *Blackbird Farms Apts., L.P. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002).

- d) Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

Conclusion

16. The Petitioners did not establish a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.